

## **REMARKS**

Claims 1-7 and 16-29 remain pending in the present application. Claims 8-15 have been cancelled. Claims 1-3 have been amended. Claims 16-29 are new. Basis for the amendments and new claims can be found throughout the specification, claims and drawings originally filed.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1, 2 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Burgess. Applicants respectfully traverse this rejection. The Burgess patents disclose a tear-drop shaped tube having a single passage or cavity where the tear drop shape is vertical so that the single cavity is located horizontally. As defined by Burgess '248, the tubes are constructed and arranged as in Burgess '228 (column 2, lines 29-35). The purpose of this construction is to ensure that liquid refrigerant stays in the lower part of the tear drop to avoid slugs of liquid refrigerant which would slow down the flow of gas.

Claim 1 has been amended to define that a plurality of passages are defined by each tube. Since Burgess requires a single passage in order to isolate the liquid refrigerant from the gas refrigerant, the plurality of passages are not disclosed by Burgess and there is no incentive to combine Burgess with an additional reference since modifying Burgess to have a plurality of passages would render Burgess unsatisfactory for its intended purpose.

Thus, Applicants believe Claim 1, as amended, patentably distinguishes over the art of record. Likewise, Claims 2 and 4, which ultimately depend from Claim 1, are also

believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Burgess in view of Warner and Stoy, et al. Claims 5 and 6 depend from Claim 1. As stated above, Claim 1 has been amended and is now believed to patentably distinguish over the art of record. Thus, Claims 5 and 6 are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **REJOINDER**

Applicants respectfully request the rejoinder of Claims 3 and 7. Claims 8-15 have been cancelled.

#### **NEW CLAIMS**

New Claims 16-29 are presented. Applicants believe Claims 16-21, 23-25 and 27-29 read on the elected species.

New Claims 16-19 are dependent claims which Applicants believe properly further limits Claim 1.

New Claim 20 is an independent claim which defines an upper and lower tank with the tubes extending vertically between the tanks. Burgess discloses horizontal tubes which must be horizontal for Burgess to function properly. New Claims 21-29 are

dependent claims depending from Claim 20 which have similar limitations to the dependent claims depending from Claim 1.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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